

**BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

MICHAEL J. ROONEY, P.A.

Case No: 1E-1999-104432

**Physician Assistant
License No. PA-13828**

Respondent.

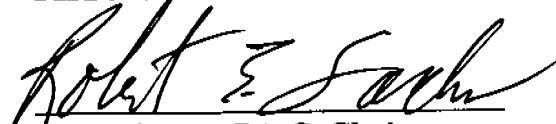
DECISION AND ORDER

The attached Stipulation for Surrender of License is hereby adopted as the Decision and Order of the Physician Assistant Committee, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on January 4, 2001

ORDERED December 28, 2000

PHYSICIAN ASSISTANT COMMITTEE


Robert Sachs, PA-C, Chair

1 BILL LOCKYER, Attorney General
of the State of California
2 GAIL M. HEPPELL
Supervising Deputy Attorney General
3 ISA R. RODRIGUEZ (State Bar No. 104838)
Deputy Attorney General
4 2550 Mariposa Mall, #5090
Fresno, California 93721
5 Telephone: (559) 488-7384

6 Attorneys for Complainant

7
8 **BEFORE THE**
PHYSICIAN ASSISTANT COMMITTEE
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1E-1999-104432

12 **MICHAEL J. ROONEY, P.A.**
CDC #P89892
13 Deuel Vocational Institution
P.O. Box 400
14 Tracy, CA 95378
License No. PA-13828,

**STIPULATION FOR
SURRENDER OF LICENSE**

15 Respondent.
16

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings, that the following matters are true:

- 20 1. Complainant, Ray Dale, is the Executive Officer of the Physician
21 Assistant Committee, Department of Consumer Affairs ("Committee") and is represented by Bill
22 Lockyer, Attorney General of the State of California by Isa R. Rodriguez, Deputy Attorney
23 General.
- 24 2. Michael J. Rooney, P.A. ("respondent") is represented in this matter by
25 attorney Michael A. Fagalde, whose address is Allen, Polgar, Proietti & Fagalde, P.O. Box
26 2184, Merced, California 95344. The respondent has counseled with his attorney concerning the
27 effect of this stipulation which respondent has carefully read and fully understands.

1 3. Respondent has received and read the Accusation¹ which is presently on
2 file and pending in Case Number 1E-1999-104432 before the Physician Assistant Committee,
3 Department of Consumer Affairs (hereinafter the "committee"), a copy of which is attached as
4 Exhibit A and incorporated herein by reference.

5 4. Respondent understands the nature of the charges alleged in the
6 Accusation and that, if proven at hearing, such charges and allegations would constitute cause for
7 imposing discipline upon respondent's license issued by the Board.

8 5. Respondent and his counsel are aware of each of respondent's rights,
9 including the right to a hearing on the charges and allegations, the right to confront and cross-
10 examine witnesses who would testify against respondent, the right to testify and present evidence
11 on his own behalf, as well as to the issuance of subpoenas to compel the attendance of witnesses
12 and the production of documents, the right to contest the charges and allegations, and other rights
13 which are accorded respondent pursuant to the California Administrative Procedure Act (Gov.
14 Code, § 11500 et seq.) and other applicable laws, including the right to seek reconsideration,
15 review by the superior court, and appellate review.

16 6. In order to avoid the expense and uncertainty of a hearing, respondent
17 freely and voluntarily waives each and every one of these rights set forth above and admits the
18 truth of the allegations contained in Accusation No. 1E-1999-104432. Respondent agrees that
19 cause exists to discipline his license pursuant to Business and Professions Code sections 2234,
20 2234(e) and 3531, and hereby surrenders his license for the committee's formal acceptance.

21 7. Respondent understands that by signing this stipulation he is enabling the
22 Division of Medical Quality to issue its order accepting the surrender of his license without
23 further process. He understands and agrees that board staff and counsel for complainant may
24

25 1. References to Accusation shall include First Amended Accusation unless
26 otherwise noted.
27

1 communicate directly with the Committee regarding this stipulation, without notice to or
2 participation by respondent or his counsel. In the event that this stipulation is rejected for any
3 reason by the Committee, it will be of no force or effect for either party. The Committee will not
4 be disqualified from further action in this matter by virtue of its consideration of this stipulation.

5 8. Upon acceptance of the stipulation by the Committee, respondent
6 understands that he will no longer be permitted to practice as a Physician Assistant in California,
7 and also agrees to surrender and cause to be delivered to the Committee both his license and
8 wallet certificate before the effective date of the decision.

9 9. Respondent fully understands and agrees that if he ever files an application
10 for relicensure or reinstatement in the State of California, the Committee shall treat it as a
11 petition for reinstatement, the respondent must comply with all the laws, regulations and
12 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
13 of the charges and allegations contained in Accusation No. 1E-1999-104432 will be deemed to
14 be true, correct and admitted by respondent when the Committee determines whether to grant or
15 deny the petition.

16 **ACCEPTANCE**

17 I, Michael J. Rooney, have carefully read the above stipulation and enter into it
18 freely and voluntarily and with the advice of counsel, and with full knowledge of its force and
19 effect, do hereby surrender my Physician Assistant License, PA-13828, to the Physician
20 Assistant Committee for its formal acceptance. By signing this stipulation to surrender my
21 license, I recognize that upon its formal acceptance by the Committee, I will lose all rights and

22 ///

23 ///


24 ///

25 ///

26 ///

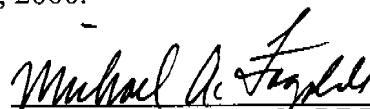
1 privileges to practice as a physician assistant in the State of California and I also will cause to be
2 delivered to the Committee both my license and wallet certificate before the effective date of the
3 decision.

4 DATED: October 6, 2000.

5 
6 **MICHAEL J. ROONEY**
Respondent

7 I concur in the stipulation.

8 *MR* DATED: ^{Nov} October 20, 2000.

9 
10 **MICHAEL A. FACALDE**
Attorney for Respondent

11 *MR* DATED: ^{November} October 22, 2000.

13 BILL LOCKYER, Attorney General
of the State of California
14 GAIL M. HEPPELL, Supervising
Deputy Attorney General

15
16 By 
17 **ISA R. RODRIGUEZ**
Deputy Attorney General

18 Attorneys for Complainant
19
20
21
22
23
24
25
26
27

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 27, 2000
BY [Signature] ANALYST

BILL LOCKYER, Attorney General
of the State of California
GAIL M. HEPPELL, Supervising
Deputy Attorney General
ISA R. RODRIGUEZ (State Bar No. 104838)
Deputy Attorney General
California Department of Justice
2550 Mariposa Mall, Rm. 5090
Fresno, California 93721
Telephone: (559) 488-7384

Attorneys for Complainant

BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:) Case No. 1E-1999-104432
)
MICHAEL J. ROONEY, P.A.)
1019 W. Yosemite Avenue, Apt. 8) ACCUSATION
14 Merced, CA 95340)
)
15 License No. P.A. 12174,)
)
16 Respondent.)
_____)

The Complainant alleges:

PARTIES

1. Ray Dale ("Complainant") brings this accusation solely in his official capacity as the Executive Director of the Physician Assistant Committee (hereinafter the "Committee").

2. On or about July 5, 1988, License No. P.A. 12174 was issued by the Committee to Michael J. Rooney, P.A. (hereinafter "respondent"). At all times relevant to the charges brought herein, this license has been in full force and effect. Unless renewed, it will expire on August 31, 2001.

////

JURISDICTION

3. This accusation is brought before the Physician Assistant Committee of the Medical Board of California, Department of Consumer Affairs (hereinafter the "Committee"), under the authority of the following sections of the Business and Professions Code (hereinafter "Code"):

A. Section 3504 of the Code established the Committee within the Medical Board of California.

B. Section 3527(a) of the Code provides, in pertinent part, that the Committee may order the suspension or revocation of, or the imposition of probationary conditions upon a physician's assistant license, after a proper hearing, for unprofessional conduct which includes, but is not limited to, a violation of the Physician Assistant Practice Act or a violation of the Medical Practice Act.

C. Section 2234 of the Code provides that unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter.

(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

D. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, or forfeiture by operation of law of a license issued by a board, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

1 E. Section 125.3 of the Code provides, in part, that the Committee may
2 request the administrative law judge to direct any licentiate found to have committed a
3 violation or violations of the licensing act, to pay the Committee a sum not to exceed the
4 reasonable costs of the investigation and enforcement of the case.

5 **FIRST CAUSE FOR DISCIPLINE**

6 (Unprofessional Conduct/Dishonest/Corrupt Acts - Sections 2234 and 2234(e))

7 4. Respondent is subject to disciplinary action under section 2234 and 2234(e)
8 of the Code in that he is guilty of unprofessional conduct and committed dishonest or corrupt acts
9 in his conduct with a female juvenile over a period of years. The circumstances are as follows:

10 A. From on or about May 3, 1993, through on or about May 2, 1996,
11 respondent engaged in lewd conduct with E.S.¹, a juvenile female between the ages of 10
12 years old and 13 years old. E.S. is developmentally disabled and is the daughter of R.S.,
13 respondent's former girlfriend whom he dated from on or about August 1992 through on
14 or about November 1999. During this time, R.S. and her daughters would spend time at
15 respondent's residence and sometimes spent weekends there. During these visits to
16 respondent's residence, when R.S. was asleep or away from the residence, respondent, on
17 several occasions, fondled E.S.'s breasts, exposed his genitals to E.S., tried to have E.S.
18 fondle his penis, and kissed E.S. Once, when E.S. was 10 or 11 years old and while
19 staying at respondent's residence, respondent snuck into the bedroom where E.S. and her
20 younger sister were sleeping and began touching E.S. E.S. thought she was having a
21 dream and awoke to find respondent with his finger in either her anal area or her genitals.
22 Respondent told E.S. not to tell her mother and acknowledged he had a problem and was
23 trying to quit. These incidents occurred at unspecified times and dates known to
24 respondent.

25 ////

26 _____
27 1. Initials used to protect the privacy of the minor and other individuals. Names will be
provided in discovery.

1 5. Respondent's conduct as set forth in Paragraph 5.A., above, has subjected
2 his license to discipline for unprofessional conduct or dishonest or corrupt acts pursuant to sections
3 2234 and 2234(e) in that he used his position of trust within E.S.'s family setting to commit lewd
4 acts on a developmentally disabled female juvenile for his own sexual gratification.

5 **PRAYER**

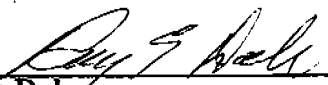
6 **WHEREFORE**, the complainant requests that a hearing be held on the matters
7 herein alleged, and that following the hearing, the Committee issue a decision:

8 1. Revoking or suspending License Number P.A. 12174, heretofore issued to
9 respondent Michael J. Rooney, P.A.;

10 2. Ordering respondent to pay the Committee the reasonable costs of the
11 investigation and enforcement of this case and, if placed on probation, the costs of probation
12 monitoring;

13 3. Taking such other and further action as the Committee deems necessary and
14 proper.

15 DATED: June 27, 2000.

16
17
18 
19 Ray Dale
20 Executive Director
21 Physician Assistant Committee
22 Department of Consumer Affairs
23 State of California

24
25
26
27 Complainant

1 BILL LOCKYER, Attorney General
of the State of California
2 GAIL M. HEPPELL, Supervising
Deputy Attorney General
3 ISA R. RODRIGUEZ (State Bar No. 104838)
Deputy Attorney General
4 California Department of Justice
2550 Mariposa Mall, Rm. 5090
5 Fresno, California 93721
Telephone: (559) 488-7384
6

7 Attorneys for Complainant
8

9
10 **BEFORE THE**
PHYSICIAN ASSISTANT COMMITTEE
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:) Case No. 1E-1999-104432
13)
13 **MICHAEL J. ROONEY, P.A.**)
1019 W. Yosemite Avenue, Apt. 8)
14 Merced, CA 95340) **FIRST AMENDED**
) **A C C U S A T I O N**
15 License No. P.A. 12174,)
16)
Respondent.)
17 _____)

18 Ray Dale, for further causes for discipline, alleges:

- 19 1. Complainant Ray Dale makes and files this First Amended Accusation solely
20 in his official capacity as Executive Officer of the Physician Assistant Committee (hereinafter the
21 Committee);
22 2. The allegations of paragraphs 2 through 5 of the Accusation heretofore filed
23 are realleged herein by reference as if fully set forth herein.
24

25 **JURISDICTION**

- 26 3. This First Amended Accusation is brought before the Committee pursuant
27 to the provisions of sections 3504 and 3527(a) of the Code as set forth below:

1 A. Section 3504 of the Code established the Committee within the
2 Medical Board of California.

3 B. Section 3527(a) of the Code provides, in pertinent part, that the
4 Committee may order the suspension or revocation of, or the imposition of probationary
5 conditions upon a physician's assistant license, after a proper hearing, for unprofessional
6 conduct which includes, but is not limited to, a violation of the Physician Assistant Practice
7 Act or a violation of the Medical Practice Act.

8 4. Section 3531 of the Code provides, in pertinent part, that a plea or verdict
9 of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of
10 any offense which is substantially related to the qualifications, functions, or duties of a physician
11 assistant is deemed to be a conviction.

12 5. Section 2230.5 of the Code provides, in pertinent part, that any accusation
13 filed shall be filed within three years after the Board, or a division thereof, discovers the act or
14 omission alleged as the ground for disciplinary action, or within seven years after the act or
15 omission alleged as the ground for disciplinary action, whichever occurs first.

16 **SECOND CAUSE FOR DISCIPLINE**

17 (Conviction Of A Crime)

18 6. Respondent is subject to disciplinary action under section 3531 of the Code
19 in that respondent pled nolo contendere to two felony offenses. The circumstances are as follows:

20 A. On or about June 28, 2000, respondent was convicted through a plea
21 of nolo contendere to violating Penal Code sections 261(A)(4), rape of an
22 unconscious person, and 288.5, sexual abuse of a child--both felonies. The
23 conviction occurred in the Superior Court of the State of California in and for the
24 County of Merced in a case entitled *People v. Michael John Rooney*, Case No.
25 24623. As a result of the conviction, respondent was sentenced to two (2) years
26 in prison for violating Penal Code section 261(A)(4) and eight (8) years in prison
27 for violating Penal Code section 288.5, for a total commitment of 10 years.

1 B. The facts underlying respondent's conviction for violating Penal
2 Code section 288.5 have been previously pled and charged in Paragraph 4.A. of
3 the initial Accusation heretofore filed and currently pending in this matter.

4 C. The facts underlying respondent's conviction for violating Penal
5 Code section 261(A)(4) are barred by section 2230.5 of the Code and shall not,
6 therefore, be pled or charged.

7 **PRAYER**


8 **WHEREFORE**, the complainant requests that a hearing be held on the matters
9 herein alleged, and that following the hearing, the Committee issue a decision:

10 1. Revoking or suspending Physician Assistant's License Number P.A. 12174,
11 heretofore issued to respondent Michael J. Rooney, P.A.;

12 2. Ordering respondent to pay the Committee the reasonable costs of the
13 investigation and enforcement of this case and, if placed on probation, the costs of probation
14 monitoring;

15 3. Taking such other and further action as the Committee deems necessary and
16 proper.

17 DATED: August 16, 2000.

18
19
20 
21 **Ray Dale**
22 Executive Director
23 Physician Assistant Committee
24 Department of Consumer Affairs
25 State of California

26
27 Complainant